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OFFICE OF PETITIONS

EXPRESS MAIL NO. EL976386558US

PTO/SB/64 (08-03)

Approved for use through 07/31/2006. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Docket Number (Optional)

60219-13/PP-16758.003First named inventor: **Nobuyuki Itoh et al.**Application No.: **10/060,765**Art Unit: **1646**Filed: **January 29, 2002**Examiner: **Ruixiang Li**Title: **HUMAN FGF-21 GENE AND GENE EXPRESSION PRODUCTS**

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX: (703) 308-6916

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (703) 305-9282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus any extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee -- required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

1. Petition fee☐ Small entity - fee \$ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.☒ Other than small entity - fee **\$1330** (37 CFR 1.17(m))**2. Reply and/or fee**

A. The reply and/or fee to the above-noted Office action in the form of **Response to Restriction Requirement** (identify type of reply):

- ☐ has been filed previously on _____
☒ is enclosed herewith.

B. The issue fee of \$ _____

- ☐ has been paid previously on _____
☐ is enclosed herewith.

02/05/2004 AWONDAF1 00000138 040258 09829760

01 FC:1453 1330.00 DA

[Page 1 of 2]

This collection of information is required by 37 CFR 1.137. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14.

02/05/2004 AWONDAF2 00000020 040258 10060765

01 FC:1453 1330.00 DA

SEA 1460606v1 60219-13
Seattle

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02/17/2004

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01 FC:1452

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3. Terminal disclaimer with disclaimer fee

- ☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$_____ for a small entity or \$_____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D))].

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

February 2, 2004
Date

Telephone
Number: 206-628-7650


Signature

Jane E. R. Potter
Typed or printed name

1501 Fourth Avenue, Suite 2600
Address

Enclosures: ☒ Fee Payment (Deposit Account Charge)

Seattle, WA 98101-1688

☒ Reply

Address

☐ Terminal Disclaimer Form

☒ Additional sheets containing statements establishing unintentional delay

☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

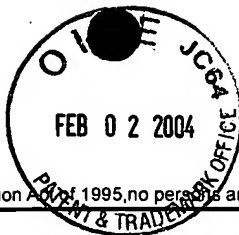
☒ deposited with the United States Postal Service on the date shown below via Express Mail in an envelope addressed to: Attention: Office of Petitions, **Mail Stop Petition**, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

☐ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) 308-6916.

February 2, 2004
Date


Signature

Jessica Gaunt
Typed or printed name of person signing certificate



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**FEE TRANSMITTAL
for FY 2004**

Effective 10/01/2003. Patent fees are subject to annual revision.

☐ Applicant claims small entity status. See 37 CFR 1.27**TOTAL AMOUNT OF PAYMENT (\$)** 1330**Complete if Known**

Application Number	10/060,765
Filing Date	January 29, 2002
First Named Inventor	Nobuyuki Itoh
Examiner Name	Ruixiang Li
Art Unit	1646
Attorney Docket No.	60219-13/PP-16758.003

METHOD OF PAYMENT (check all that apply)☐ Check ☐ Credit card ☐ Money Order ☐ None☒ Deposit Account:Deposit
Account
Number

04-0258

Deposit
Account
Name

Davis Wright Tremaine LLP

The Commissioner is authorized to: (check all that apply)☒ Charge fee(s) indicated below ☒ Credit any overpayments☐ Charge any additional fee(s) during the pendency of this application☐ Charge fee(s) indicated below, except for the filing fee☒ Charge any deficiencies
to the above-identified deposit account.**FEE CALCULATION****1. BASIC FILING FEE**

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee(\$)	Fee Code	Fee(\$)		
1001	770	2001	385	Utility filing fee	
1002	340	2002	170	Design filing fee	
1003	530	2003	265	Plant filing fee	
1004	770	2004	385	Reissue filing fee	
1005	160	2005	80	Provisional filing fee	
SUBTOTAL (1)					(\$) 0

2. EXTRA CLAIM FEES

			Extra Claims	Fee from below	Fee Paid
Total Claims		- 20** =		x	
Independent Claims		- 3** =		x	
Multiple Dependent					

Large Entity		Small Entity		Fee Description
Fee Code	Fee (\$)	Fee Code	Fee (\$)	
1202	18	2202	9	Claims in excess of 20
1201	86	2201	43	Independent claims in excess of 3
1203	290	2203	145	Multiple dependent claim, if not paid
1204	86	2204	43	** Reissue independent claims over original patent
1205	18	2205	9	** Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) (\$) 0

**or number previously paid, if greater; For Reissues, see above

FEE CALCULATION (continued)**3. ADDITIONAL FEES**

Large Entity		Small		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1051	130	2051	65	Surcharge - late filing fee or oath	
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet.	
1053	130	1053	130	Non-English specification	
1812	2,520	1812	2,520	For filing a request for ex parte reexamination	
1804	920*	1804	920*	Requesting publication of SIR prior to Examiner action	
1805	1,840*	1805	1,840*	Requesting publication of SIR after Examiner action	
1251	110	2251	55	Extension for reply within first month	
1252	420	2252	210	Extension for reply within second month	
1253	950	2253	475	Extension for reply within third month	
1254	1,480	2254	740	Extension for reply within fourth month	
1255	2,010	2255	1005	Extension for reply within fifth month	
1401	330	2401	165	Notice of Appeal	
1402	330	2402	165	Filing a brief in support of an appeal	
1403	290	2403	145	Request for oral hearing	
1451	1,510	1451	1,510	Petition to institute a public use proceeding	
1452	110	2452	55	Petition to revive - unavoidable	
1453	1,330	2453	665	Petition to revive - unintentional	1330
1501	1,330	2501	665	Utility issue fee (or reissue)	
1502	480	2502	240	Design issue fee	
1503	640	2503	320	Plant issue fee	
1460	130	1460	130	Petitions to the Commissioner	
1807	50	1807	50	Petitions related to provisional applications	
1806	180	1806	180	Submission of Information Disclosure Stmt	
8021	40	8021	40	Recording each patent assignment per property (times number of properties)	
1809	770	2809	385	Filing a submission after final rejection (37 CFR § 1.129(a))	
1810	770	2810	385	For each additional invention to be examined (37 CFR § 1.129(b))	
1801	770	2801	385	Request for Continued Examination (RCE)	
1802	900	1802	900	Request for expedited examination of a design application	

Other fee (specify) _____

*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$) 1330

SUBMITTED BY

(Complete (if applicable))

Name (Print Type)	Jane E. R. Potter	Registration No. (Attorney/Agent)	33,332	Telephone	206-628-7650
Signature		Date	February 2, 2004		

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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

FEB 06 2004

OFFICE OF PETITIONS

Applicants : Nobuyuki Itoh et al.
Application No. : 10/060,765
Filed : January 29, 2002
For : HUMAN FGF-21 GENE AND GENE EXPRESSION PRODUCTS

Examiner : Ruixiang Li
Art Unit : 1646
Docket No. : 60219-13/PP-16758.003
Date : February 2, 2004

Attn: Office of Petitions
Mail Stop Petition
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

STATEMENT

This application became abandoned for applicants' alleged failure to timely file a reply to the office letter mailed on June 11, 2003. However, applicants have no record of receiving the office letter, which was a Restriction Requirement. The office letter was, according to Examiner Ruixiang Li, mailed to Seed IP Law Group. Enclosed is a copy of the printout from that law firm showing that no entry was made for any PTO correspondence during the relevant time period. If such correspondence had been received, it would have been entered under attorney docket no. 201130.408D1 and would have been forwarded to applicants' representative at Davis Wright Tremaine, LLP.

Applicants submit that the abandonment was unavoidable due to non-receipt of the June 11, 2003 office letter. Examiner Li faxed a copy of the office letter to applicants' representative on January 14, 2004, but did not include a copy of the cover page, so applicants cannot verify where the original June 11, 2003 office letter was mailed. The period of abandonment between December 11, 2003 (the final due date including extensions of time) and the filing of this Petition is due to telephone communications with the Examiner and to the time needed for review of the June 11, 2003 office letter (received on January 14, 2004) and

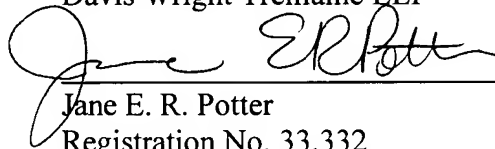
development of applicants' instructions for preparing a full response, which accompanies this petition.

If the Patent Office agrees with applicants that the abandonment was unavoidable, refund of the excess Petition fee paid under the unintentional abandonment standard is requested. The full fee under the unintentional abandonment standard is, however, paid herewith in order to avoid any further delays in prosecution.

A timely and favorable decision on Petition is respectfully requested.

If questions remain regarding this application, the Examiner is invited to contact the undersigned at (206) 628-7650.

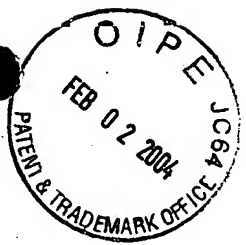
Respectfully submitted,
Nobuyuki Itoh et al.
Davis Wright Tremaine LLP



Jane E. R. Potter
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ORIGINAL CORRESPONDENCE SENT TO DAVIS WRIGHT TREMAINE LLP



S&B Docket No	Date of Correspondence	Correspondence From	Atty	Description	Date Sent to DWT
	12/22/2003	USPTO		Notice of Abandonment	
	12/22/2003	USPTO		Notice of Abandonment	
	12/1/2003	USPTO		Notice of Patent Expiration	
	11/13/2003	USPTO		Notice of Abandonment	
	11/13/2003	USPTO		ISR	
	10/20/2003	USPTO		Certificate of Registration	
	10/22/2003	International Bur		Annulity Reminder	
	9/16/2003			Corrected Version of Publication	
	9/18/2003	USPTO		Associate Reminder re: Annulity	
	8/18/2003	USPTO		Notice of Abandonment	
	8/18/2003	USPTO		Notice of Abandonment	
	8/26/2003	PCT Office		Invitation to Pay Additional Fees	
	8/25/2000			Certificate of Registration	
	8/11/2003			Fee Reminder	
	8/12/2003	USPTO		Associate Letter Post Grant	
	8/11/2003	USPTO		Notice of Patent Expiration	
	8/8/2003	USPTO		Letters Patent	
	7/25/2003	USPTO		Issue Notification	
	8/1/2003	USPTO		Associate Ltr re: Request Exam	
	6/23/2003	USPTO		Certificate of Correction	
	7/9/2003			Examination Reminder	
	7/11/2003	USPTO		Annulity Reminder	
	6/12/2003	USPTO		Notice of Publication	
	6/17/2003	USPTO		Notice of Abandonment	
	6/17/2003	USPTO		Notice of Abandonment	
	6/2/2003	USPTO		Notice of Publication	
	6/3/2003	USPTO		Maintenance Fee Statement	
	5/20/2003			Notice re: Non-Renewal	
	5/20/2003			Fee Reminder	
	5/13/2003	USPTO		Notice re: Non-Renewal	
	5/12/2003	USPTO		M-Fee Reminder	
	Misc.	USPTO		Loose Filing	
	5/8/2003	USPTO		Notice of Allowance	
	5/5/2003			Assoc Fax re: Annulity Grace Period	
	5/6/2003			Office Action	
	4/28/2003	USPTO		Notice of Abandonment	